erty that its charter allowed. *Held*, that the charity was sufficiently definite for the State to enforce, and that the failure of the trustee to act would not cause the property to revert to the heirs. Moreover, the capacity of the corporation could not be questioned by the heirs, but only by writ of *quo warranto*. *Heiskell* v. *Chickasaw Lodge*, 11 S. W. Rep. 825 (Tenn.).

In England, when property is devised for indefinite charities, and no trustee is appointed, or those appointed cannot act, the king, as *parens patriæ*, will direct the application of the fund as he thinks best. This prerogative is exercised by the chancellor under the sign-manual of the king. The power also extends to those cases where the charity is illegal or cannot be carried out. In the United States there is no one to exercise this prerogative, unless, as in Pennsylvania, the Legislature confers it by statute. Perry on Trusts (3d ed.), §§ 718, 721; Kent's Commentaries, vol. ii. (12th ed.), p. 508, n. 1; *Jackson* v. *Phillips*, 14 Allen, 539. It is held in many States in this country, that, in place of this prerogative power, the courts of equity, as such, are bound to carry out the testator's intention as nearly as possible, and where the particular charity has failed, will substitute another charity of the same nature. This power does not cover indefinite charities, which revert to the heirs.

WILLS — TESTAMENTARY CAPACITY — BURDEN OF PROOF. — The presumption of the law is in favor of testamentary capacity, and the burden of proof is on those who assert the contrary. *McCoon* v. *Allen*, 17 Atl. Rep. 820 (N. J.).

This seems to be an instance of confounding the "burden of proof" with the "burden of going forward with evidence." According to the accepted doctrine the burden of proving testamentary capacity, *i.e.*, that the will was made by a testator of sound and disposing mind, was on those setting up the will, though after a *prima facie* case had been made out in their favor it might become necessary for the other side to go forward with evidence of testamentary incapacity or be defeated. *Sutton* v. *Saddler*, 3 C. B. N. S. 87; *Barnes* v. *Barnes*, 66 Me. 286.

REVIEW.

A TREATISE ON THE LAW OF CONVEYANCING. By W. B. Martindale, second edition by Lyne S. Metcalfe, Jr. St. Louis: Central Law Journal Co.

For the student who desires a thorough knowledge of the foundation principles of the subject of conveyancing, this book is too closely confined to modern American practice. Those old statutes of De Donis, Quia Emptores, and especially the Statutes of Uses and Enrolments, receive but the merest mention. Considering how little is said of either future estates or the Statute of Uses, it seems a pity to leave the reader in the least doubt whether a "freehold may be limited *in futuro* by bargain and sale." (63, note 1.)

For the actual conveyancer, the subject is not treated enough in detail. Deeds, leases, mortgages, and wills are all included in the 600 pages of reading-matter. One would think that seals might be treated exhaustively, even if some less relevant matter should be omitted. On examination we find that New York alone is charged with refusing to recognize a printed seal, whereas Massachusetts has done the same. The subject of stamps is not even mentioned, nor is a single form given.

Still the book is of convenient size, and is splendidly indexed. To the readers who desire a general knowledge of settled principles the book is valuable. This class probably calls for the second edition.

The alterations of the text in the second edition are not numerous, but the number of cases cited is somewhat increased. C. H.